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LIBERTARIAN LEAGUE
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I F Y O U A R E A R R E S T E D...

- **What are your rights?**
- **What can you do?**
- **Where can you get help?**
- **What does the law say you cannot do?**

Issued as a Public Service by
THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
42 West 44 Street, New York 36, N. Y.
and the
NEW YORK CIVIL LIBERTIES UNION
170 Fifth Avenue, New York 10, N. Y.

IF YOU ARE ARRESTED . . .

What Are Your Rights?

The law says that arrest is "taking a person into custody (so) that *he* may be held to *answer* for a crime". If you are arrested, you have rights which protect you from unfair pressure. The policeman who may arrest you has his job to do, and you must respect it. He stands for law and order, and he has a duty to us, to our families and to the City of New York.

What are *your* rights if you are arrested? Here are answers to some questions you may have about these rights. Read them carefully so you will know your rights if you are arrested.

I. THE ACT OF ARREST

What If You Are Innocent?

Even if you think you are not guilty, it is a crime to resist an officer who arrests you lawfully. Respect him. Do not talk back or be disorderly. If it turns out that you have been arrested illegally, you can sue the policeman for false arrest. But remember: if the arrest was a lawful one, the fact that you are innocent does not give you the right to collect damages. The following answers tell you how to get help to answer the charge and to protect your rights—whether you are innocent or not.

What Can You Be Arrested For?

There are three kinds of violations for which you might be arrested: *Felony* is the name for the most serious violation. Less serious violations are called *misdemeanors*, and the least serious are known as *offenses*.

When Can You Be Arrested?

A policeman may arrest you without a warrant:

1. If he *sees* you commit a violation of the law—or if he *sees* you *try* to commit one.
2. If someone committed a felony and if the policeman has reason to believe you did it, even if he was not there at the time.

Must the Policeman Have a Warrant?

In most situations a policeman must have a warrant to arrest you for a misdemeanor or an offense, if he did not see you do it himself. He does not need a warrant to arrest you for a felony.

What Is a Warrant?

A warrant is an order signed by a magistrate or a judge. It is made on a complaint by someone, and it charges that you committed a crime. The warrant must list the charge against you. It also must direct the policeman to make the arrest and to bring you before a magistrate or a judge. In the case of a misdemeanor, you cannot be arrested on a warrant on Sunday or at night—unless the magistrate or judge says so in writing on the warrant itself. If a policeman has a warrant for your arrest, he must tell you he has it. You have the right to ask to see it. If you ask, he must show the warrant to you.

Can the Policeman Use Force to Arrest You?

If you resist a lawful arrest, the policeman can use all necessary force to arrest you. However, after you have been restrained, he cannot continue to use force.

An officer may break open a door or a window to make a lawful arrest or to serve a warrant if you refuse to admit him.

II. YOUR RIGHTS IN THE POLICE STATION

What Happens After You Are Arrested?

You are taken to a police station, where a record of your arrest and the charge against you must be reported without unnecessary delay in the "arrest book". Before questioning you, the police must tell you the charge. Where required by law, you will be fingerprinted and photographed.

Do You Have to Answer Questions?

It is your right, under the Constitution, to refuse to say anything that may be used against you later—and to have the aid and advice of a lawyer at all times. After identifying yourself, you do not have to answer any questions or sign any paper about a crime. Neither a policeman nor anyone else may force you to do this. If any force or threats are used against you, report it to the court, to the District Attorney and to your own lawyer. You should also report promptly to the court any injuries and bruises suffered after arrest.

The promise of a policeman to help you or to intervene with the court, in exchange for a confession, is *not* binding.

Can You Notify Your Family?

You are entitled to have one telephone call made within city limits, to tell your family, friend or lawyer about your arrest. The police must do this promptly if you request it.

What Happens to the Money You May Have with You?

You must be given an itemized receipt for all money and property taken from you when you are booked.

Can You Be Released on Bail?

You have the right to be allowed to apply promptly for bail. *Bail* permits you to be released from jail, if an amount of money or other security is deposited with the proper official to make sure that you will appear in court. For some minor offenses, the police may release you on bail. In other cases, a judge fixes the amount of bail, and you have a right to be brought before him without unnecessary delay.

How Can You Get Money for Bail?

There are bail "brokers," licensed by the State of New York, who post a bond for bail (pay the amount for you). The fee they charge is regulated by the state. Charges are 5% on the first \$1,000, 4% on the next \$1,000 and 3% on the remaining sum. The minimum fee is \$10. (Examples: \$100 bond costs \$10; \$200, \$10; \$500, \$25; \$1,000, \$50; \$2,000, \$90; \$5,000, \$180, etc.)

III. YOUR RIGHTS IN COURT

When Do You Go Before a Magistrate?

After arrest and booking, you must be taken before a magistrate without unnecessary delay. If a magistrate is not then sitting in the right court, you may be held in a station house until the next court session.

Should You Have a Lawyer With You?

If possible, you should have a lawyer with you when you are taken before the magistrate. The magistrate must tell you the charge against you. He must inform you of your right to have a lawyer if you do not have one, and he must allow you a reasonable time to send for a lawyer. If you ask, he must put off the hearing so that you can get a lawyer. The magistrate must direct an officer to take a message to your lawyer, without a fee.

What If You Cannot Afford a Lawyer?

If you are charged with a felony or a misdemeanor, and you cannot pay for a lawyer, you can request legal aid. In the Court of Special Sessions and the Court of General Sessions, the court must name a lawyer to defend you. In other courts you may ask the magistrate if you are entitled to this assistance. (See note at end for additional information on obtaining legal help.)

What Does the Magistrate Decide?

The magistrate must hold a hearing at which witnesses are examined and you have the right (but not the obligation) to testify. You can ask that this hearing be adjourned until your lawyer can be present. For certain offenses, this hearing constitutes a trial so that the magistrate will dispose of the case directly and either dismiss the charge or find you guilty. In other cases, where he cannot try the charge himself, the magistrate decides only whether or not there is a reasonable basis for finding that you committed the offense charged. In such case you may waive the hearing. If you are charged with a misdemeanor, the magistrate will hold you for trial by the Court of Special Sessions; if it is a felony, he will hold you for the action of a Grand Jury.

What Does the Grand Jury Do?

The Grand Jury will either dismiss the charge against you or it will indict (accuse) you. If it indicts you, you must then stand trial in a trial court. You have a "right" to ask to appear before the Grand Jury when it is considering your case, but you should not make this request without the advice of your lawyer.

IV. WHERE YOU CAN GET HELP

If you do not know a lawyer and you need legal advice, telephone or write to the Legal Referral Service in your borough at the address listed below. This is a public service supervised and supported by the Bar Associations of New York City.

MANHATTAN

Legal Referral Service
36 West 44th St., New York 36, N. Y.
(MURray Hill 7-7383)

BRONX

Legal Referral Service
Bronx County Bar Association
Bronx County Building
851 Grand Concourse, Bronx 51, N. Y.
(JErome 7-4012)

BROOKLYN

Legal Referral Service
Brooklyn Bar Association
123 Remsen St., Brooklyn 1, N. Y.
(MAin 4-0675)

QUEENS

Legal Referral Service
Queens County Bar Association
88-11 Sutphin Blvd., Jamaica, N. Y.
(JAmaica 6-0096)

If you cannot pay for the services of a lawyer, write or telephone the **LEGAL AID SOCIETY**, 100 Centre Street, New York 13, N. Y. (BEekman 3-0250) for information about facilities which may be available in your borough.

IF YOU ARE ARRESTED

You have a right to

- Get a lawyer
- Say nothing that can be held against you
- Notify family or friends
- Apply for bail

Do not

- Resist a policeman
- Talk back or be disorderly
- Refuse entry for a lawful arrest

This pamphlet is the result of many months of research and consultation with experts in the field of police practices.

Laws covering arrest are not the same in every city. This pamphlet applies only to New York City.